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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ATUL N. HATALKAR

Appeal 2009-006710
Application 09/753,086
Technology Center 2400

Before LANCE LEONARD BARRY, STEPHEN C. SIU, and
DEBRA K. STEPHENS, *Administrative Patent Judges*.

SIU, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 27-42. Claims 1-26 are canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Invention

The invention relates to a communication system that may include a system host that transmits messages to a number of client devices, which may be dynamically grouped (Spec. 24, ll. 2-4).

Independent claim 27 is illustrative:

27. A method comprising:

compiling a first map that associates identifiers of clients in a digital cable broadcast system with identifiers of groups of two or more clients in the digital cable broadcast system;

transmitting the first map to available clients in the digital cable broadcast system;

compiling a second map in which associations between subscriber identifiers and client group identifiers have been changed;

transmitting the second map to available clients in the digital cable broadcast system;

broadcasting digital cable content intended to be accessible only by a subset of available clients to all available clients in the digital cable broadcast system, wherein accessible content is content that is to be output to client displays, and wherein said broadcasting comprises

associating the digital cable content with a first identifier of a first group of two or more clients and

broadcasting the first identifier in association with the digital cable content; and

configuring clients in the digital cable broadcast system to compare the first group identifier broadcast in association with the digital cable content with any group identifiers from a most recently received one of the first map and the second map that were associated with an identifier of the client, to determine if the digital cable content is to be discarded at the client, wherein discarded content is content that is not to be output to client displays.

References

The Examiner relies upon the following references as evidence in support of the rejection:

Yamashita	US 6,622,303 B1	Sep. 16, 2003 (filed Feb. 16, 2000)
Swix	US 6,718,551 B1	Apr. 6, 2004 (filed Dec. 21, 1999)
Eldering	US 7,039,932 B2	May 2, 2006 (filed Dec. 21, 2000)

Rejections

Claims 27, 30, 31, 36, 37, 39, and 41 are rejected under 35 U.S.C. § 102(e) as being anticipated by Yamashita.

Claims 28, 29, 34, 35, 38, and 40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamashita and Swix.

Claims 32, 33, and 42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamashita and Eldering.

ISSUES

Issue 1

Appellant argues that Yamashita's "EMM [entitlement management message] information is composed of a (single) identification number and a (single) subscriber control signal" and is therefore, according to Appellant, "not a map that associates identifiers of clients with identifiers of groups of clients" (App. Br. 9-11).

Issue: Did the Examiner err in finding that Yamashita teaches a map that associates identifiers of clients in a broadcast system with identifiers of groups of two or more clients in the broadcast system?

Issue 2

Appellant argues that "even if Yamashita's digital CATV [community antenna television] broadcast system 2 did include 'mapping between identifier information and the group information' as contended by the Examiner, there is no reason to believe that such a mapping is transmitted to available clients in a digital cable broadcast system" (App. Br. 14).

Issue: Did the Examiner err in finding that Yamashita teaches transmitting first and second maps to the available clients in the digital cable broadcast system?

FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

1. Yamashita discloses that

EMM information is composed of an identification number and a subscriber control signal. The identification number is a unique number assigned to each subscriber of the digital CATV broadcast system 2 from a group of identification numbers is [sic] used for the digital CATV broadcast system 2. When a person makes a subscription contract with the management company of the digital CATV broadcast system 2, the management company assigns one of [the] identification numbers from the group to the subscriber.

(Col. 4, ll. 48-56).

2. Yamashita discloses that “[c]ontract data is obtained from the subscriber control signal of the EMM information” (col. 5, ll. 22-24).

3. Yamashita discloses that

[t]wo methods for charging subscribers [sic] are flat contract and PPV (Pay Per View) contract. In the flat contract, each subscriber is charged for a designated channel in the unit for a predetermined period. In the PPV contract, each subscriber is charged for each program. The pay channel programs are scrambled so that only PPV contracted subscribers can receive them.

(Col. 3, ll. 54-61).

4. Yamashita discloses that “[i]n the digital CATV broadcast, only EMM . . . information of the identification numbers belonging to subscribers are filtered and transmitted” (col. 3, ll. 12-15).
5. Yamashita discloses that
[t]he set top box 6 is provided with an IC card [that] stores the identification number of the subscriber. The set top box 6 receives the EMM information and compares the identification number of the EMM information with the identification number stored in the IC [integrated circuit] card.
(Col. 5, ll. 15-19).

PRINCIPLES OF LAW

Claim interpretation

“In the patentability context, claims are to be given their broadest reasonable interpretations. . . . [L]imitations are not to be read into the claims from the specification.” *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citations omitted).

Anticipation

In rejecting claims under 35 U.S.C. § 102, “[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation.” *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375 (Fed. Cir. 2005) (citation omitted).

Obviousness

The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art,

(2) any differences between the claimed subject matter and the prior art, and
(3) the level of skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966).

ANALYSIS

Issue 1

Appellant challenges the Examiner's finding that Yamashita teaches the claimed map. Based on Appellant's arguments in the Appeal Brief, we will decide the appeal of claims 27-42 with respect to issue 1 on the basis of claim 27. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Appellant argues that Yamashita's EMM does not anticipate a map because this "information is uniquely addressed to individual subscribers using a single unique identifier of that subscriber and includes contract information relevant only to the addressed individual subscribers" (App. Br. 10). We are unconvinced.

As claimed, a map is something "that associates identifiers of clients in a digital cable broadcast system with identifiers of groups of two or more clients in the digital cable broadcast system" (Claim 1). While this description provides details about what a map does, this description lacks structure that would establish what a map is. Therefore, anything that associates identifiers of clients and identifiers of groups in a digital cable broadcast system falls within a reasonably broad interpretation of the claimed map.

Yamashita's EMM information is composed of an identification number, uniquely assigned to each subscriber of a digital CATV broadcast

system, and a subscriber control signal (FF 1). The subscriber control signal provides contract data (FF 2). Yamashita describes both flat contracts and pay per view contracts (FF 3). Therefore, Yamashita teaches a map (EMM information) that associates identifiers of clients (subscribers) in a broadcast system (digital CATV broadcast system) with identifiers of groups of two or more clients (flat contract subscribers or pay per view contract subscribers) in the broadcast system.

Appellant further submits that “Yamashita is . . . believed to make it clear that there is a single unique identifier for each device that is both stored in set top boxes 6 and found in EMM information” (App. Br. 11). This submission is not persuasive of error because its importance relies on map structural limitations that are not in the claim.

For at least these reasons, we find no evidence persuasive of error in the Examiner’s 35 U.S.C. § 102(e) rejection of claim 27, and claims 30, 31, 36, 37, 39, and 41 which fall therewith with respect to this issue, or in the Examiner’s 35 U.S.C. § 103(a) rejections of claims 28, 29, 32-35, 38, 40, and 42.

Issue 2

Appellant challenges the Examiner’s findings that Yamashita teaches map transmission. Based on Appellant’s arguments in the Appeal Brief, we will decide the appeal of claims 27-42 with respect to issue 2 on the basis of claim 27. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Appellant argues that “there is no reason to believe that such a mapping is transmitted to available clients in a digital cable broadcast

system” (App. Br. 14). However, Yamashita teaches that EMM information of identification numbers belonging to subscribers are filtered and transmitted (FF 4). As discussed above, EMM information teaches the claimed map. EMM information changes as subscribers make subscription contracts (FF 1). EMM information is also sent to the set top boxes for each subscriber (FF 5). Therefore, Yamashita teaches transmitting first (before) and second (and after a subscriber makes a subscription contract) maps (EMM information) to the available clients (subscriber set top boxes) in the digital cable broadcast system.

Appellant further argues that “[s]ince any such mapping is not transmitted to the clients, the clients do not determine if the digital cable content is to be discarded through comparisons with group identifiers from such a mapping” (App. Br. 14). This argument relies on a faulty premise—that the claimed map is not transmitted to the clients—and is therefore unpersuasive.

For at least these reasons, we find no evidence persuasive of error in the Examiner’s 35 U.S.C. § 102(e) rejection of claim 27, and claims 30, 31, 36, 37, 39, and 41 which fall therewith with respect to this issue, or in the Examiner’s 35 U.S.C. § 103(a) rejections of claims 28, 29, 32-35, 38, 40, and 42.

CONCLUSIONS OF LAW

Based on the findings of facts and analysis above, we find no evidence persuasive of error in the Examiner’s findings:

1. that Yamashita teaches a map that associates identifiers of clients in a broadcast system with identifiers of groups of two or more clients in the broadcast system (issue 1); and
2. that Yamashita teaches transmitting first and second maps to the available clients in the digital cable broadcast system (issue 2).

DECISION

We affirm the Examiner's decision rejecting claims 27, 30, 31, 36, 37, 39, and 41 under 35 U.S.C. § 102(e).

We affirm the Examiner's decision rejecting claims 28, 29, 32-35, 38, 40, and 42 under 35 U.S.C. § 103(a).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

msc

INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040